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OCT 28 2004

In re Application of	:	OFFICE OF PETITIONS
Jens Kossmann et al	:	
Application No. 09/843,007	:	ON PETITION
Filed: April 26, 2001	:	
Attorney Docket No. GFB-1 DIV1	:	

This is a decision on the petition, filed October 22, 2004, under 37 CFR 1.313 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED** for failure to specify or show good and sufficient reasons why withdrawal of the application from issue is necessary. This is not a final agency action.

37 CFR 1.313(c) states:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:

- (1) Unpatentability of one or more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;
- (2) Consideration of a submission pursuant to 37 CFR 1.114; or
- (3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

37 CFR 1.313(d) states:

(d) A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials before the date of issue. **Withdrawal of an application from issue after payment of the issue fee may not be effective to avoid publication of application information** (emphasis added).

See Changes to Application Examination and Provisional Application Practice, Interim Rule, 65 Fed. Reg. 14865, 14873 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office 47, 54 (Apr. 11, 2000).

The instant petition is not accompanied by: (1) an unequivocal statement that one or more claims are unpatentable; (2) an amendment to such claim or claims; and (3) an explanation as to how the amendment causes such claim or claims to be patentable.

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220 .

This matter is being referred to Publication Division.



Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy